

## REMARKS

Applicants acknowledge receipt of the final office action dated June 9, 2006, in which the Examiner indicated that claims 18, 19, 23, and 24 would be allowable and rejected the balance of the claims pending in the application. In this after-final response, Applicants have amended claim 15 and respectfully submit arguments illustrating why the present claims are allowable over the art.

### **Rejection under 35 U.S.C. § 103**

In continuing the rejection of claims 2, 4, and 14-24 as unpatentable over Stewart et al ('496) in view of Cerutti et al, the Examiner asserts that Stewart discloses a multistory building meeting the limitations of claims 15 and 20 with the exception of using poured-in-place concrete construction techniques.

Applicants have carefully followed the Examiner's arguments on page 2 of the office action (main paragraph), and understand that the Examiner is defining any wall as a "tunnel wall."<sup>1</sup> Under this interpretation, the Examiner is able to assert that the "tunnel walls" that define parking spaces 510 "include the drive aisle 512," and that the "tunnel walls" that define parking spaces 508 are shorter than the "tunnel walls" that define parking spaces 510.

Applicants respectfully submit that the "tunnels" and "tunnel walls" of the present invention are not simply sections of concrete, wherever they occur. Rather, "tunnels" and "tunnel walls" refer to the product of a particular construction technique. As set out in the Background of the present specification, the purpose of the present invention is to allow certain types of buildings to be built using Tunnel Forming techniques. Specifically, buildings that include a parking garage below residential units, such as apartment buildings, formerly had to be built using more expensive techniques.<sup>2</sup> *By configuring the levels as recited in the present claims, Applicants enabled entire buildings to be constructed using Tunnel Forming and without the need for the more expensive techniques.*

As this concept relates to the present claims, each "tunnel wall" extends from the main axis of the building to the perimeter of the building. Put another way, each "tunnel wall" spans the drive aisle and extends beyond the drive aisle to the building perimeter at one end and to the

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<sup>1</sup> Applicants do not dispute this reading.

<sup>2</sup> Tunnel-formed buildings are constructed by assembling box-shaped forms, i.e. "tunnel forms," and pouring concrete between them. Each layer is built on top of the previous layer in the same manner.

building axis at the other end. **Claim 15 has been amended to clearly recite this aspect of the tunnel walls. The limitation is supported at paragraph [0019] of the specification.**

Still referring to the present invention, some of the tunnel walls only span the drive aisle, whereas some of the tunnel walls have a wider opening (as viewed from, e.g., a car in the drive aisle) than others. These wider openings (60) allow a car to park “under” (i.e. in the same plane as) those walls.<sup>3</sup> (See paragraph [0020]). Nothing in the art has suggested such a concept.

To further clarify this recitation, claim 15 has been amended to recite that the drive aisle openings in the first walls are wider than the drive aisle openings in other walls.<sup>4</sup> All of the drive aisle openings in the references are the same width.

Put another way, there is nothing in Stewart that would enable a car—regardless of how small it was—to park in the same plane as one of the walls unless it were parked in the drive aisle. Thus, the present invention overcomes a deficiency in the art.

Further, even if the tunnel-forming of Cerutti were combined with Stewart, the resulting building would still only be able to include a single parking space<sup>5</sup> between each pair of adjacent walls, unlike the present building.

Applicants believe that the amendments to claim 15 distinguish it over the cited art. If the Examiner feels that further limitation of the claims would clarify the concepts discussed herein or facilitate allowance, he is respectfully requested to telephone the undersigned.

Lastly, the Examiner states that “There is a plurality of automobile parking spaces configured such that a set of three adjacent tunnels includes at least four automobile parking spaces.” Applicants respectfully request that the Examiner provide specific support for this assertion by identifying the cited components in the cited art.

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<sup>3</sup> Claim 15 has been amended to clarify the direction of the parking space in question, by reciting that the drive aisle openings in the first tunnel walls are wide enough to accommodate an automobile parking space that is perpendicular to the drive aisle.” This limitation is supported by the original Figures.

<sup>4</sup> For an illustration and detailed discussion of the openings in question, the Examiner is directed to the *Response to Office Action Dated October 3, 2003*, which was filed on February 3, 2004.

<sup>5</sup> Despite the Examiner’s assertion that a car can be any size, Applicants respectfully submit that, as shown in the Exhibits filed with the previous Response, “parking spaces” are conventionally accepted to have a finite range of acceptable dimensions.

### **Conclusion**

Because the art does not teach the use of tunnel walls with openings that span the drive aisle and a parking space and because the claims as written are definite and clearly distinguishable over the art, Applicants respectfully submit that they are in condition for allowance.

Applicants sincerely appreciate the effort the Examiner has invested in the present case.

Applicants request that the Examiner enter the amendments and withdraw the rejections. If the Examiner has any questions or comments, or would like to suggest any further amendments, he is encouraged to telephone the undersigned at (713) 238-8043.

Respectfully submitted,



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